

1 UNITED STATES DISTRICT COURT

2 WESTERN DISTRICT OF NEW YORK

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6 UNITED STATES OF AMERICA

18-CR-6094(G)

7 vs.

8 XAVIER TORRES,

Defendant.

Rochester, New York  
January 14, 2022  
2:06 p.m.

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10 TRANSCRIPT OF PROCEEDINGS  
11 BEFORE THE HONORABLE FRANK P. GERACI, JR.  
12 UNITED STATES DISTRICT JUDGE

13 JAMES P. KENNEDY, JR., ESQ.  
14 United States Attorney  
15 BY: ROBERT A. MARANGOLA, ESQ.  
16 CASSIE M. KOCHER, ESQ.  
17 Assistant United States Attorneys  
18 500 Federal Building  
19 Rochester, New York 14614  
Appearing on behalf of the United States

20 MAURICE J. VERRILLO, ESQ.  
21 3300 Monroe Avenue  
22 Suite 301  
23 Rochester, New York 14618  
24 Appearing on behalf of the Defendant

25 ALSO PRESENT: Kerry Chartier, U.S. Probation Office

COURT REPORTER: Christi A. Macri, FAPR-RMR-CRR-CSR(NY/CA)  
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100 State Street, Room 2640  
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1                   P R O C E E D I N G S

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3                   (WHEREUPON, the defendant is present via Zoom).

4                   **THE CLERK:** This is 18-CR-6094, U.S. vs. Xavier

02:06:58PM 5 Torres.

6                   Rob Marangola is here for the Government.

7                   Maurice Verrillo is here for defendant.

8                   Kerry Chartier is here from Probation.

9                   Mr. Torres appears today from the Monroe County  
02:07:09PM 10 Jail for a status.

11                  **THE COURT:** Are you Xavier Torres?

12                  **THE DEFENDANT:** Yes, sir.

13                  **THE COURT:** Can you hear us okay?

14                  **THE DEFENDANT:** Yes, Your Honor.

02:07:21PM 15                  **THE COURT:** Are you consenting to have this matter  
16 heard by way of video conference?

17                  **THE DEFENDANT:** Yes, Your Honor.

18                  **THE COURT:** Okay. I do remind the parties they  
19 cannot rebroadcast, reproduce or record any part of this  
02:07:31PM 20 hearing. To do so would violate the Court's order, could  
21 result in a contempt of court.

22                  Mr. Marangola, I think this at was your request?

23                  **MR. MARANGOLA:** I'm sorry, Judge?

24                  **THE COURT:** You requested this appearance today?

02:07:45PM 25                  **MR. MARANGOLA:** Yes, Judge, that's correct. The

1 Probation Office has filed the report in this case.

2 Mr. Verrillo, on behalf of the defendant, has filed  
3 some objections to that, namely, with regard to guidelines  
4 calculation and the assigning of the base offense level of 43  
02:08:06PM 5 based on the defendant's involvement in the numerous murders  
6 that were perpetrated by this conspiracy.

7 Given that, we would be prepared, Your Honor, to  
8 put forth evidence of the defendant's involvement in -- his  
9 direct involvement and personal involvement in at least one  
02:08:24PM10 murder, that being the murder of John Gonzalez, that occurred  
11 in Buffalo. As the Court may recall, there was testimony  
12 about that at the trial.

13 We would be prepared to call the defendant's  
14 accomplice in that murder, Victor Nunez, to testify to the  
02:08:41PM15 defendant's direct and specific involvement in that murder,  
16 which would be additional support for the guideline  
17 enhancement that's set forth in the presentence report.

18 So I'd request that the Court maintain today as a  
19 status date basically for scheduling so that we could schedule  
02:09:02PM20 that matter for a sentencing hearing, if the Court would agree  
21 to that.

22 **THE COURT:** Okay, Mr. Verrillo, do you want to be  
23 heard?

24 **MR. VERRILLO:** Judge, I did talk to my client about  
02:09:13PM25 that request. And I think the Court had quite a bit of

1 testimony to consider, so we would submit that we don't think  
2 a sentencing hearing is needed. But if it's going to be  
3 directed then, we would like to have some specific parameters  
4 as to what is going to be involved.

02:09:30PM 5                   **THE COURT:** Okay. But you're objecting to that  
6 enhancement; is that correct?

7                   **MR. VERRILLO:** Yes, Judge.

8                   **THE COURT:** All right, I think it would make sense  
9 to have a hearing regarding that issue. So we'll put the  
02:09:43PM10 matter on for March 8th at 2 p.m.

11                  Mr. Marangola, how many witnesses do you expect?  
12 Just the one?

13                  **MR. MARANGOLA:** Yes, Judge. I would expect just the  
14 one. I'll double check that. We don't -- there is a  
02:09:59PM15 potential we could call a second witness, but I was planning  
16 most likely on just Mr. Nunez.

17                  **MR. VERRILLO:** Judge, I have a trial on the 8th. If  
18 we could have another date that week?

19                  **THE COURT:** Okay. How about the 7th, the day  
02:10:18PM20 before?

21                  **MR. VERRILLO:** I have two days, the 7th and 8th.  
22 I'm available the 10th, 11th.

23                  **THE COURT:** I'm not.

24                  **MR. VERRILLO:** Or the 16th, the week after.

02:10:27PM25                  **THE COURT:** How about the -- you say you're

1 available on the 15th?

2                   **MR. VERRILLO:** Give me one second, let me get my  
3 calender up here.

4                   **THE COURT:** 15th or 16th of March.

02:10:43PM 5                   **MR. VERRILLO:** I'm available definitely on the 16th.

6                   **THE COURT:** Let's do that.

7                   **MR. MARANGOLA:** I'm available the 16th.

8                   **THE COURT:** March 16th, 3 p.m. I'm on trial that  
9 day. 3 p.m., March 16th, 3 p.m. for a hearing.

02:11:00PM10                  **MR. VERRILLO:** Judge, that will be in person for the  
11 hearing?

12                  **THE COURT:** Yes.

13                  **MR. VERRILLO:** Okay.

14                  **THE COURT:** Okay.

02:11:10PM15                  **MR. MARANGOLA:** 3 p.m. on the 16th then?

16                  **THE COURT:** We'll reset the sentencing date after  
17 that, after the hearing, okay?

18                  **MR. MARANGOLA:** All right, Judge. I'll let the  
19 Court and Mr. Verrillo know if we plan to call anyone in  
02:11:21PM20 addition to Mr. Nunez.

21                  We provided Mr. Nunez's Jencks previously before  
22 the trial. But in the event that we anticipate calling one  
23 other pertinent -- one other witness, we'll let the Court  
24 know.

02:11:34PM25                  **THE COURT:** Okay, great. Anything further?

1                   **MR. MARANGOLA:** No, Judge. Thank you very much.

2                   **THE COURT:** Mr. Verrillo?

3                   **MR. VERRILLO:** Thank you, Judge.

4                   **THE COURT:** Thank you. Have a good day everybody.

02:11:41PM 5                   **MR. MARANGOLA:** All right, bye-bye.

6                   (**WHEREUPON**, proceedings adjourned at 2:11 p.m.)

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8                   CERTIFICATE OF REPORTER

9  
10                  In accordance with 28, U.S.C., 753(b), I certify that  
11 these original notes are a true and correct record of  
12 proceedings in the United States District Court for the  
13 Western District of New York before the Honorable Frank P.  
14 Geraci, Jr. on January 14th, 2022.

15

16                  S/ Christi A. Macri

17                  Christi A. Macri, FAPR-RMR-CRR-CSR(CA/NY)  
18                  Official Court Reporter

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